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SUBJECT: AMBASSADOR RAPP RAISES ICTR CASE TRANSFERS WITH
RWANDAN OFFICIALS

Classified By: Ambassador W. Stuart Symington for reasons 1.4 b,d.

¶1. (C) Ambassador at Large for War Crimes Issues Stephen Rapp raised with Rwanda's Prosecutor General Martin Ngoga the issue of transferring cases for trial in Rwanda from the International Criminal Tribunal for Rwanda (ICTR). In a discussion on the margins of a November meeting in Kigali of prosecutors of international criminal tribunals, Rapp thanked Ngoga for Rwanda's recent receipt of eight prisoners from the Sierra Leone Special Court and recognized Rwanda's significant efforts to provide assurances to the ICTR that trials in Rwanda would meet international standards.

¶2. (C) Rapp said that the USG supported transferring to Rwanda for trial the cases of most, and perhaps all those whose trials had not begun or who had not yet been apprehended by the ICTR. Ngoga said he thought that the ICTR Chief Prosecutor would soon make another Article 11 bis request to transfer additional trials to Rwanda. Ngoga said that Rwanda had been negatively affected by the ICTR judges' refusal to permit transfers in the past, but that Rwanda had met every objection. If the judges still refused, citing new obstacles, that would show bad faith, he asserted. Rapp replied by suggesting that it might be helpful for Rwanda to consider taking another step in addition to all that it had done already to improve the prospects for the judges agreeing to transfer. Specifically, Rapp asked if Rwanda might have international judges sit on a multi-judge Rwandan trial court or appeals panels hearing transferred cases.

¶3. (C) Ngoga replied that asking Rwanda to make further changes in its laws was not right and warned that it could delay the process. However, he pointed out that Rwanda already has had foreign judges sit alone in Rwandan courts on civil matters and said that had greatly reduced a heavy case backlog. After consulting with two members of his staff, he indicated that Rwandan legal procedures also permitted foreign judges to sit in Rwanda in criminal trials. Ngoga warned that it would be untenable politically to require all transferred prisoners to be tried by foreign judges, and Rapp understood, suggesting that it might be useful to have a single foreign judge on a multi-judge panel. Ngoga voiced his willingness to discuss possible modalities for such a procedure. Ngoga added that, while criminal trials are usually heard in the first instance by single judges, the President of the Rwandan Supreme Court has the authority to appoint a multi-judge panel when the President thinks there is a reason to do so. Rapp was pleased and voiced his interest in working with Rwanda to explore such options that might help to achieve the goal of bringing cases to Rwanda for trial.
SYMINGTON